Supreme Court, U.S.
FILED

03 748 NOV 19 2003

No.

In the

Supreme Court of the United States

REGENCY OUTDOOR ADVERTISING, INC.,
a California Corporation,

Petitioner,

v.

COUNTY OF RIVERSIDE, a political subdivision
of the State of California.

Respondent.

**On Petition for a Writ of Certiorari to the
The Court of Appeals for the Ninth Circuit**

PETITION FOR WRIT OF CERTIORARI

MADISON S. SPACH, JR.
Counsel of Record
SPACH, CAPALDI & WAGGAMAN, LLP
4675 MacArthur Court
Suite 550
Newport Beach, CA 92660
(949) 852-0710
Attorneys for Petitioner
Regency Outdoor Advertising, Inc.

CURRY & TAYLOR ♦ WASH D.C. ♦ (202) 223-3160 ♦ USSCINFO.COM

QUESTIONS PRESENTED

After Petitioner Regency Outdoor Advertising, Inc. ("Petitioner"), a sign company that operates billboards, mounted a First Amendment challenge to the sign ordinance of Respondent County of Riverside, California (the "County"), the latter amended its ordinance, primarily to allow placement of noncommercial messages wherever commercial messages are allowed (the "Substitution Clause"). The United States Court of Appeals for the Ninth Circuit ruled that the amended ordinance violated the First Amendment to the extent it conditioned the legality of pre-existing signs on compliance with the original ordinance, but nonetheless allowed the County to eliminate Petitioner's billboards by severing, and separately enforcing, three provisions of the challenged ordinance that it found to be constitutional – without preliminarily addressing Petitioner's First Amendment challenges to other portions of the ordinance.

The questions presented are:

1. Whether the First Amendment requires a court to identify which challenged provisions of the subject law are constitutionally invalid before testing severance under applicable state law principles.

2. Whether the County's inclusion of the Substitution Clause renders the subject ordinance unconstitutionally vague or results in the unconstitutional preference of one speaker over another.

PARTIES TO THE PROCEEDING AND DISCLOSURE UNDER RULE 29.6

The following entities are parties to the proceeding in the court below:

Petitioner is a privately held California corporation that has no parent corporations. Its shares are not publicly traded, and no publicly held corporation owns 10% or more of its shares.

Valley Outdoor, Inc. ("Valley"), a co-plaintiff and co-appellant below, is a California corporation. Valley is not a petitioner here. The shares of Regency are not publicly traded, and no publicly held corporation owns 10% or more of its shares. The shares of Valley are not publicly traded; Regency believes that no publicly held corporation owns 10% or more of the shares of Valley.

The only other party to this action is Respondent County of Riverside, California, a municipal corporation.

TABLE OF CONTENTS

Pages

QUESTIONS PRESENTED i

PARTIES TO THE PROCEEDING DISCLOSURE UNDER RULE 29.6 ii

TABLE OF AUTHORITIES iv

DECISIONS BELOW 1

JURISDICTION 1

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED 2

STATEMENT OF THE CASE 3

REASONS FOR GRANTING THE PETITION 9

CONCLUSION 19

APPENDIX

COURT OF APPEALS ORDER (07/31/03) 1a

DISTRICT COURT DECISION (02/13/02) 12a

ORDER DENYING REHEARING 20a

EXCERPTS OF RIVERSIDE COUNTY ORDINANCE NO. 348 ..... 21a

PETITION FOR A WRIT OF CERTIORARI

Petitioner respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case.

DECISIONS BELOW

The opinion of the United States Court of Appeals for the Ninth Circuit is published as *Valley Outdoor, Inc. v. County of Riverside*, 337 F.3d 1111 (9th Cir. 2003), and is reprinted at pages 1a through 9a of the Appendix hereto. The order of the District Court from which Petitioner appealed to the United States Court of Appeals for the Ninth Circuit was not published, and is reprinted at pages 16a through 19a of the Appendix hereto.

JURISDICTION

Judgment of the United States Court of Appeals for the Ninth Circuit was originally entered on May 23, 2003 and was not officially published. On motion of appellant County of Riverside, California (the "County"), the Ninth Circuit on July 15, 2003 ordered its decision published. It stands published as indicated above. Thereafter, Petitioner on August 14, 2003 timely filed a petition for panel rehearing, which the Ninth Circuit denied by means of its order entered on August 21, 2003, and reprinted as page 20a of the Appendix. The jurisdiction of this Court rests upon 28 U.S.C. § 1254(1).

In the proceedings below, the jurisdiction of the District Court was properly invoked on the basis of the existence of a federal question and deprivation of civil rights pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3). This action arose under the Constitution of the United

States, the Federal Civil Rights Act, 42 U.S.C. § § 1983 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

Petitioner filed a timely Notice of Appeal. 28 U.S.C. § 2107(a) and Fed.R.App.P. 4(a)(1)(A).

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

The First Amendment to the Constitution of the United States provides, in pertinent part, that:

> Congress shall make no law ... abridging the freedom of speech, ... or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S. CONST. amend. I.

The Fourteenth Amendment to the Constitution of the United States provides, in pertinent part, that:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. CONST. amend. XIV, § 1.

The applicable provisions of the Riverside County Ordinance No. 348, as amended (referred to as the "New Ordinance" below) are reprinted as pages 21a through 24a of the Appendix hereto.

STATEMENT OF THE CASE

A. Introduction

This Court has repeatedly assessed whether a state legislative enactment may stand after some, but not all, of its provisions have been declared invalid under the United States Constitution. Whether the balance of a challenged state law may be enforced is generally tested under the severance principles of the subject state. Indeed, in the substantial body of law adjudicating First Amendment challenges, there is hardly a principle more settled than the one that state law governs the mechanics of a severance analysis.

Before assessing whether a regulatory scheme may be enforced after severing its unconstitutional provisions, however, a court must first identify the unconstitutional terms. This Court has repeatedly applied such a two-stage analysis without the necessity of spelling out the required methodology. Here, however, the United States Court of Appeals for the Ninth Circuit inverted this two-stage process: without addressing the constitutionality of numerous provisions of the County's sign ordinance challenged by Petitioner, it severed and separately enforced restrictions it found to be *valid*, and in doing so it committed an error of constitutional dimensions.

After the Court of Appeals granted the County's motion to publish its decision, Petitioner unsuccessfully sought rehearing, requesting that each challenged issue be assessed by the Court of Appeals before it applied its severance analysis (and, in addition, contesting the court's application of the California severance test). The court's mistake in methodology gravely endangers First Amendment freedoms, for it approves a mode of

analysis that leaves in place the numerous unconstitutional provisions of a regulatory scheme as long as it contains at least a single constitutional burden on speech. Because the Ninth Circuit's methodology is entirely at odds with a long line of decisions of this Court such as *New York v. United States*, 505 U.S. 144 (1992) and *Leavitt v. Jane L.*, 518 U.S. 137 (1996), Petitioner asks that this Court review that decision.

B. The County's Sign Ordinances

Petitioner, an outdoor advertising company, is one of two plaintiffs below in this action that sought to enjoin Respondent County of Riverside, California (the "County") from enforcing either of the two applicable versions of its sign ordinance so as to require removal of two Riverside County billboards in which Petitioner holds an interest. When Petitioner acquired its interest in the two billboards, the County's then existing version of its sign ordinance (the "Original Ordinance") contained provisions virtually identical to those held unconstitutional by the Ninth Circuit in *Desert Outdoor Advertising, Inc. v. City of Moreno Valley*, 103 F.3d 814 (9th Cir. 1996), *cert. denied* 522 U.S. 912 (1997). The similarity was not surprising, for the Moreno Valley sign ordinance was derived from that of the County at the time the City of Moreno Valley became incorporated. *Desert Outdoor*, 103 F.3d at 816.[1]

The Original Ordinance generally allowed commercial on-premises signs, but completely prohibited all billboards and other off-premises signs

[1] The City of Moreno Valley was incorporated in a previously unincorporated area of Riverside County. *Desert Outdoor*, 103 F.3d at 816.

from most zones.[2] Billboards generally fall into the category of off-premises signs, for they display both commercial and noncommercial messages unrelated to the business activities of the site at which they are located. Petitioner makes its billboards available on an all-comers basis, with the result that its signs carry both commercial and noncommercial messages.

In addition to their zoning restrictions, both versions of the sign ordinance prohibit off-premises signs having a surface area greater than 300 square feet and a height exceeding 25 feet above grade. These three provisions of both versions are substantially identical. New Ordinance, §§19.3.b(2), (3) and (9).

After three sign companies mounted First Amendment challenges to the Original Ordinance, the County amended its sign ordinance (the "New Ordinance"). Addressing the fact that, like the Moreno Valley sign ordinance, the Original Ordinance impermissibly preferred commercial over noncommercial speech by imposing less burdensome restrictions on on-site signs, the County adopted a clause allowing noncommercial messages to be placed wherever any sign is allowed. New Ordinance, at §19.5. The New Ordinance at §19.2.i defines noncommercial display or signs by their message; "noncommercial signs or displays" are those with a message that does

---

[2] Both versions of the sign ordinance categorize off-premises signs on the basis of whether the message displayed on the sign refers to the activities conducted on the site where the signs are located. Under the New Ordinance, a sign is an "outdoor advertising display," which "may be commonly known or referred to as an 'off-site' or an 'off-premises' billboard" if it is a sign not used as an on-site sign. An on-site sign is defined as such if it advertises the business conducted or services rendered, or the goods produced or sold on at the site. *See* New Ordinance, §§19.2.j and 19.2.k.

not do the following: "(1) Advertise a product or service for profit or for a business purpose; (2) Propose a commercial transaction; and (3) Relate solely to an economic interest."

The Old Ordinance did not become irrelevant, however, for the County's New Ordinance conferred legal, non-conforming status only on those pre-existing billboards that were constructed and maintained in compliance with the Original Ordinance. The Ninth Circuit affirmed the District Court's ruling that such a term violates the First Amendment.

Both versions of the sign ordinance give significantly more favorable treatment to on-site (at times referred to as "on-premise") signs than to off-site (or "off-premise") signs. Off-premise signs cannot be placed within the County unless the speaker first obtains a permit from the County's Planning Director. In this fashion, the prior restraint of a permit applies to billboards.

C. Procedural History

In April 1998, Petitioner's predecessor-in-interest constructed two billboards in an unincorporated area of the County without first obtaining a permit. Petitioner first opposed the construction, then settled with its predecessor and filed its own litigation challenging the County's sign ordinance.

Petitioner's First Amended Complaint below, filed on April 17, 2000 (the "Complaint"), sought declaratory and injunctive relief for violations of the First, Fifth and Fourteenth Amendments to the U.S. Constitution and Article I, §§ 2 and 7 of the California Constitution. The parties subsequently filed cross-

motions for summary judgment on Petitioner's facial attack under the First Amendment on both versions of the sign ordinance. The District Court granted each motion in part and denied each in part, ruling that Petitioner was entitled to a declaration that the New Ordinance violates the First Amendment to the extent that it conditions legality on compliance with the Original Ordinance. However, the District Court held that the height, size and zoning restrictions contained in both versions of the sign ordinance could be applied independently of the unconstitutional provisions and were constitutional; moreover, they could be severed and separately enforced so as to require removal of Petitioner's billboards. As a result, the District Court ruled that Petitioner's signs were an illegal, non-conforming use that could be constitutionally prohibited by the New Ordinance.

On appeal, Petitioner contended that the District Court's analysis stood the severance doctrine on its head. The First Amendment requires that a court consider all grounds on which a regulatory scheme is challenged and that the court test viability of the remaining provisions only after *all* unconstitutional provisions have been severed. The First Amendment does not allow a court to isolate and sever out content-neutral restrictions found to pass constitutional muster and then separately enforce those provisions.

The approach of the District Court on the issue of severing and separately enforcing constitutional terms became a matter of such great importance for California municipalities and anti-billboard coalitions that numerous entities sought permission to file *amicus curiae* briefs in support of the County. The California State Association of Counties, which represents all 58

California counties, sought and obtained permission to appear as *amicus curiae*. *Amicus* status was also granted to a coalition of 40 California cities. A national organization, Scenic America, which lobbies to block roadside billboards, was similarly granted *amicus* status in support of the County's positions, as was the American Planning Association, a nationally recognized organization that supports what it deems "proper" regulation of land uses, including elimination of billboards.

After considering the briefs of this wide array of parties, the Court of Appeals affirmed the District Court and adopted its analysis. *Valley Outdoor, Inc. v. County of Riverside*, 337 F.3d 1111 (9th Cir. 2003). The Court of Appeals agreed "with the district court's conclusion that the unconstitutional aspects of the grandfather clause contained in the New Ordinance are severable from the rest of the New Ordinance." *Valley Outdoor*, 337 F.3d at 1114. But such a conclusion did not prevent the County from eliminating Petitioner's billboards. Addressing both versions of the sign ordinance, the court concluded that "while neither ordinance is a model of statutory clarity, the content-neutral zoning, size, and height provisions in both ordinances are constitutional and severable, and thus would be independently enforceable regardless of any other constitutional issues in either of them." *Id.*

Initially, the Court of Appeals decided not to publish its decision. However, the County requested that it be revised to include a more detailed factual statement and then certified for publication. The Court of Appeals granted the County's motion, and the decision, filed on July 31, 2003, now stands published at the citation indicated above.

Petitioner afterwards moved for a panel rehearing on the grounds that the Court of Appeals had erred in the method by which it reached its conclusion to sever and separately enforce the three discrete restrictions on size, location and height. Petitioner argued that the approach of the Court of Appeals was not constitutionally proper, for it failed to address numerous issues raised by Petitioner's facial challenge under the First Amendment. Petitioner also argued that the Court inadequately performed the severance analysis under California law pertaining to the grandfather clause.

On August 21, 2003, the Court of Appeals denied Petitioner's motion for rehearing. The order is reprinted at page 20a of the Appendix.

REASONS FOR GRANTING THE PETITION

I. THE DECISION BELOW CONFLICTS WITH SEVERANCE DECISIONS OF THIS COURT

By concurring with the analysis of the District Court that the height, size and zoning restrictions of the County's two sign ordinances may be severed as constitutional and separately enforced, the Court of Appeals adopted an erratic approach to severance that departs from this Court's settled jurisprudence and endangers First Amendment protections across the board.

The Court of Appeals agreed with the District Court that the New Ordinance was unconstitutional to the extent it defined legality on the basis of whether a sign complied with the Original Ordinance,[3] and then

---

[3] Petitioner challenged the Original Ordinance on the basis that it confers unbridled discretion on County officials in granting or

analyzed whether that unconstitutional term could be severed (and found that it could be).[4] However, Petitioner also challenged the New Ordinance on the basis that it is a content-based regulation of speech that cannot withstand strict scrutiny; on the basis that, even following the adoption of the Substitution Clause, it preferred commercial over noncommercial speech and certain speakers over others; on the basis that it continued to impermissibly confer unbridled discretion on County officials; and on the basis that the Substitution Clause renders the New Ordinance unconstitutionally vague. But the Court of Appeal failed to rule on the challenges. As a result, it was in no position to begin its severance analysis.

The issue of severance arises only where some, but not all, restrictions of a regulatory scheme have been declared unconstitutional. After invalidating all unconstitutional provisions, a court must then apply the

---

denying permit applications; on the basis that it prefers commercial over noncommercial speech; on the basis that it impermissibly regulates speech on the basis of its content without being able to withstand strict scrutiny; and on the basis that it impermissibly regulates even commercial speech.

[4] Petitioner noted in its Petition for Panel Rehearing that the Panel misapplied the analysis under California law, failing to consider and state explicitly the necessary implications of declaring the grandfather clause invalid. Because the grandfather clause is the sole means by which pre-existing billboards could constitute legal, non-conforming uses under the New Ordinance, the elimination of that clause would amount to a declaration that all of the County's billboards are illegal, and thus subject to removal. The Court of Appeals would have been hard pressed to conclude that the County would be willing to take on the liability of compensating the owners of all of the non-conforming billboards inside the County. However, the Court of Appeals did not address this problem.

severance principles of the appropriate forum to determine whether the portion of the ordinance that remains after severance of unconstitutional terms can be enforced.

The District Court in the first instance erred by inverting this approach: it found that discrete provisions of the New Ordinance were constitutional and so could be separately enforced. However, in the proceedings before the Court of Appeals below, the County argued that the District Court's approach could be saved by, in essence, taking it to its logical extreme. The County urged that the Court of Appeals could deem *all other provisions* of the New Ordinance, apart from the size, height and zoning restrictions, to be unconstitutional. No other provisions matter, the County argued, because the regulations on billboard location, size and height are constitutional and separately enforceable.

The Court of Appeals followed the County's invitation to sever and separately enforce the zoning, height and size restrictions in isolation; but instead of considering the remaining portions invalid, it deemed them *irrelevant*:

> [T]he content-neutral zoning, size, and height provisions in both ordinances are *constitutional and severable, and thus would be independently enforceable regardless of any other constitutional issues in either of them.*

Valley Outdoor, 337 F.3d at 1114 (emphasis added). The Court of Appeals then ruled:

> Accordingly, we conclude that the appellants' billboards are illegal *for one*

> *simple reason*: they fail to meet the content-neutral zoning, size and height restrictions in both the Original Ordinance and the New Ordinance. Insofar as the appellants' claim for damages based on the unconstitutionality of the Original Ordinance remains live, no damages are warranted because the subject billboards were "independently" illegal under that ordinance's content-neutral zoning, size and height provisions, which are the same as those in the New Ordinance.

Valley Outdoor, 337 F.3d at 1115 (emphasis added).

Over and over again this Court has applied a simple, two-step severance analysis: first it determines what provisions of a challenged state or federal law are unconstitutional and, second, it tests severance under the applicable federal or state law. So fundamental is this approach that the Court simply applies it without stating that it is constitutionally mandated. For example, in *New York v. U.S.*, 505 U.S. 144 (1992), the Court first assessed the constitutionality of three provisions of a federal enactment affecting radioactive waste disposal. Though the Court found only one of the three provisions unconstitutional, it first assessed all three constitutional challenges before considering severance: "[h]aving determined that the take title provision exceeds the powers of Congress, we must consider whether it is severable from the rest of the Act." *New York*, 505 U.S. at 186. The analysis of the Ninth Circuit dispenses with the first step of this analysis.

In *Leavitt v. Jane L.*, 518 U.S. 137 (1996), this Court recognized that subverting the proper mode of severance analysis has grave implications. The Court summarily reversed the aberrant severance analysis of the Tenth Circuit Court of Appeals even though doing so involved a foray into the application of state law; the Court observed that "[t]his mode of analysis, if carried out in every case, would operate to defeat every claim of severability." *Leavitt*, 518 U.S. at 143. The Court continued:

> Every legislature that adopts, in a single enactment, provision A plus provision B intends (A+B); and that enactment, which reads (A+B), is invariably a "unified expression of that intent," so that taking away A from (A+B), leaving only B, will invariably "clearly undermine the legislative purpose" to enact (A+B). But the fallacy in applying this reasoning to the severability question is that it is not the *severing* that will take away A from (A+B) and thus foil the legislature's intent; it is the *invalidation* of A (in this case, because of its unconstitutionality) which does so--an invalidation that occurs *whether or not* the two provisions are severed. The relevant question, in other words, is not whether the legislature would prefer (A+B) to B, because by reason of the invalidation of A that choice is no longer available. *The relevant question is whether the legislature would prefer not to have B if it could not have A as well.*

Leavitt, 518 U.S. at 143-44 (emphasis added).

The "mode of analysis" adopted by the Ninth Circuit here errs with the same degree of extremity, only in the opposite direction. If the severance analysis of the Ninth Circuit stands, it could be utilized to defeat every First Amendment challenge. Such a result is no doubt why the County garnered the support of municipalities state-wise and anti-billboard groups nationwide.

In *Leavitt* and other decisions applying severance, this Court has described a two-stage process by which a federal court must assess state laws by first determining whether specific provisions violate the United States Constitution; if so, then the unconstitutional terms are to be considered invalid and the balance of the law tested. Only as a second step may the federal court look to state law for the test governing whether the remaining valid provisions of the regulatory scheme can separately stand as a legislative scheme, or whether the invalidation of the few provisions renders the entire scheme unenforceable.

In the area of First Amendment challenges in particular the court cannot ignore, subject of course to jurisdictional limitations, the constitutional challenge of a speaker such as Petitioner whose rights are burdened by the challenged law. As this Court stated in its leading case assessing the constitutionality of billboards, *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490 (1981):

> [A] court may not escape the task of assessing the First Amendment interest at stake and weighing it against the public

> interest allegedly served by the regulation.

Metromedia, 453 U.S. at 502, *quoting Linmark Associates, Inc. v. Willingboro*, 431 U.S. 85, 91 (1977), and *Bigelow v. Virginia*, 421 U.S. 809, 826 (1975).

Not only does the Ninth Circuit's approach conflict with this Court's decisions, it creates a methodology of assessing First Amendment challenges that does nothing less than dispense with the First Amendment itself. Here, the County was never required to meet its burden of demonstrating that its regulatory scheme can withstand even intermediate scrutiny, much less strict scrutiny. Petitioner's billboards are banned solely because they conflict with the three severed restrictions. The constitutional danger of this approach can be readily seen in the dilemma that Petitioner now faces: even if Petitioner attempted to construct new billboards that scrupulously adhered to the zoning, size, and height requirements of the New Ordinance, it would be required to abide by the unconstitutional permitting requirements of the New Ordinance. Thus, by failing to consider the full series of challenges presented by Petitioner, and then – and only then – determining under California law whether the remaining portions of the New Ordinance can stand, the Court of Appeals departed so dramatically from this Court's decisions that review is appropriate.

II. THE SUBSTITUTION CLAUSE RENDERS THE NEW ORDINANCE UNCONSTITUTIONALLY VAGUE AND PREFERS CERTAIN SPEAKERS OVER OTHERS

Utilizing a severance approach whereby the court segregates out constitutional provisions and separately enforces them has a second far-reaching First Amendment implication. If in response to a constitutional challenge a municipality need only show that its challenged law has at least one constitutional provision by which the targeted speech may be prohibited, the government can effectively immunize from review blatantly unconstitutional suppression of speech. Here, the County avoided Petitioner's challenge to the New Ordinance on the ground that it is unconstitutionally vague due to the adoption of the Substitution Clause.

There is little room for dispute that, under *Metromedia*, the Original Ordinance violated the First Amendment by preferring commercial speech over noncommercial speech. Believing that it was curing that defect, the County adopted the Substitution Clause, which provides that noncommercial speech, as defined in the New Ordinance, may be placed anywhere commercial speech is allowed.

Rather than curing the constitutional defect, the Substitution Clause exacerbates it. Because no permit is required for on-site signs, a business operator can erect a sign containing a noncommercial message without the prior restraint of a permit. Speakers who do not operate a business within the County, however, are prohibited from posting an identical message unless they first obtain a permit. Property owners themselves are treated differently for no reason: if a property

operates a business on its property, it can maintain a sign with a noncommercial message; if the owner does not operate a business on premises, the owner cannot erect such a sign without first obtaining a permit from the County.

Such a disparate treatment of speakers cannot be tolerated under the First Amendment. *First Nat'l Bank v. Bellotti*, 435 U.S. 765, 777 (1978) ("The inherent worth of the speech in terms of its capacity for informing the public does not depend upon the identity of its source, whether corporation, association, union, or individual.").

The Substitution Clause also renders the New Ordinance impermissibly vague by allowing "noncommercial" speech, as that term is defined in the New Ordinance, to be placed wherever "commercial" speech is allowed. It defines "noncommercial" messages as all messages except those that "(1) Advertise a product or service for profit or for a business purpose; (2) Propose a commercial transaction; and (3) Relate solely to an economic interest."

Under the New Ordinance, an enforcement officer must make a much more refined content-based decision than simply distinguishing between on-premises and off-premises speech. The legality of a message turns on whether the officer can tell the difference between (a) noncommercial speech (as defined by the County) placed on a sign where on-premises commercial speech has been previously allowed, as opposed to (b) illegal off-site commercial speech placed on a sign where it is not allowed. As a result, the Substitution Clause clearly implements an entirely unworkable solution.

Moreover, even if the County's enforcement officers are all intimately familiar with this Court's many pronouncements on the definitional distinctions between "commercial" and "noncommercial" speech, they must also understand whether, and to what degree, the County's definitions in the New Ordinance vary from this Court's decisions. A sign ordinance that pinions legality on such malleable definitional terms is inherently vague.

The distinction between permissible "noncommercial" speech and banned off-site commercial speech permeates the entire regulatory scheme. Messages must fall into one or the other category, and an enforcement officer must be able to tell the difference between them to determine which signs are illegal. It is readily apparently that enforcement of such vague terms by enforcement officers in the field is inherently impossible.

As the Court noted in *N.A.A.C.P. v. Button*, 371 U.S. 415, 432-33 (1963):

> Standards of permissible statutory vagueness are strict in the area of free expression. ... Because First Amendment freedoms need breathing space to survive, government may regulate in the area only with narrow specificity.

Because the entirety of the New Ordinance depends on applying unconstitutionally vague definitions, the New Ordinance should be stricken in its entirety as void for vagueness.

CONCLUSION

The United States Court of Appeals for the Ninth Circuit rendered a decision in conflict with the decisions of this Court and adopted an approach to severance having grave and far-reaching constitutional implications. Accordingly, Petitioner respectfully submits that a writ of certiorari should issue to review the decision of the United States Court of Appeals for the Ninth Circuit.

Respectfully submitted,

MADISON S. SPACH, JR.
Counsel of Record
SPACH, CAPALDI &
WAGGAMAN, LLP
4675 MacArthur Court
Suite 550
Newport Beach, CA 92660
(949) 852-0710
Attorneys for Petitioner
Regency Outdoor
Advertising, Inc.

(Any footnotes trail the end of each document)

No. 02-55475

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

VALLEY OUTDOOR, INC., a California Corporation,
REGENCY OUTDOOR ADVERTISING, INC.,
a California Corporation,
Plaintiffs - Appellants,

v.

COUNTY OF RIVERSIDE, a political
subdivision of the State of California,
Defendant - Appellee.

AMERICAN PLANNING ASSOCIATION, FORTY
CALIFORNIA CITIES AND THE CALIFORNIA
ASSOCIATION OF COUNTIES; SCENIC
AMERICA, INC. AND SCENIC CALIFORNIA;
INTERNATIONAL MUNICIPAL LAWYERS
ASSOCIATION,
Amicus Curiae.

APPEAL FROM the United States District Court for the Central District of California, Los Angeles.

THIS CAUSE came to be on the heard on the Transcript of the Record from the United States District Court for the Central District of California, Los Angeles and was duly submitted.

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court, that the judgment of the said District Court in this cause be, and hereby is AFFIRMED

Filed and entered July 31, 2003

No. 02-55475

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

VALLEY OUTDOOR, INC., a California Corporation;
REGENCY OUTDOOR ADVERTISING, INC.,
a California Corporation,
Plaintiffs-Appellants,

v.

COUNTY OF RIVERSIDE,
a political subdivision of the State of California,
Defendant-Appellee.

May 5, 2003, Argued and Submitted,
Pasadena, California
July 31, 2003, Filed

COUNSEL: Paul E. Fisher, Fisher & Associates, P.C., Newport Beach, California, for the plaintiffs-appellants.

Madison S. Spach, Jr., Newport Beach, California, for the plaintiffs-appellants.

Randal R. Morrison, Sabine and Morrison, San Diego, California, for the defendant-appellee.

Glenn Beloian, Office of Riverside County Counsel, Riverside, California, for the defendant-appellee.

JUDGES: Before: James R. Browning, Betty B. Fletcher, and Barry G. Silverman, Circuit Judges. Opinion by Judge B. Fletcher.

OPINION BY: Betty B. Fletcher

OPINION: B. FLETCHER, Circuit Judge:

Plaintiffs-Appellants Valley Outdoor ("Valley") and Regency Outdoor Advertising ("Regency"), two billboard companies, challenge the constitutionality of two different versions of Defendant-Appellee Riverside County's sign ordinance, claiming that both versions violate the First Amendment. They maintain that both versions of the ordinance impose impermissible restrictions on speech, favor commercial over noncommercial speech, and confer unbridled discretion on County officials to grant or deny sign permits. They also maintain that the "grandfather" provision contained in the new version of the sign ordinance is specifically targeted at their billboards and constitutes an attempt by the County to single them out for retribution. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

The four billboards at issue are located on three parcels of land adjoining State Highway 91 in Riverside County. Valley and Regency are in the business of leasing outdoor advertising space to the public on an "all comers" basis, for both commercial and noncommercial purposes. They have property interests in all four billboards, and they maintain a leasehold for two additional as-yet-unconstructed billboards in the same area.

Two of the four billboards -- the two located on the north side of Highway 91 -- were originally built in April 1998 by Outdoor Media Group ("OMG"). It is not a party to this appeal. n1 At the time they were constructed, there was a Riverside County sign ordinance, Ordinance 348, art. XIX (hereinafter "Original Ordinance") in effect that regulated the erection and maintenance of signs and billboards within Riverside County limits.

The Original Ordinance distinguished between off-site and on-site advertising n2 structures and signs, regulating the former much more extensively than the latter. Off-site structures and signs, which the statute terms "outdoor advertising displays," § 19.2(a), are subject to extensive standards and permitting requirements contained in § 19.3: among other requirements, they are allowed only in certain zones, cannot exceed 25 feet in height or 300 square feet in surface area, must be constructed and illuminated in certain ways, and may not in any case be erected, altered, repaired, or relocated without a permit. Violation of these terms is deemed a misdemeanor. § 19.3(c). Nonconforming signs are required to be removed or altered to bring them in line with the terms of the ordinance. § 19.3(d).

The Original Ordinance was subsequently amended effective July 23, 1999. The "New Ordinance" maintains the same off-site versus on-site distinction as the Original Ordinance. Under the New Ordinance, all pre-existing advertising displays, structures, or signs, whether on-site or off-site, are deemed illegal unless, inter alia, they were erected in compliance with "all applicable county ordinances and regulations in effect

at the time of [their] construction, erection or use." § 19.2(f)(1). The New Ordinance also provides expressly that "anywhere a display, structure or sign is permitted by this ordinance, a non-commercial message may be placed on such display, structure or sign." § 19.5. n3

Valley and Regency filed the current action against Riverside County in federal court on January 13, 2000. After their initial complaint was dismissed, they filed a First Amended Complaint on April 17, 2000, seeking declaratory and injunctive relief for alleged violations of the First, Fifth, and Fourteenth Amendments to the U.S. Constitution and of Article I, §§ 2 and 7 of the California constitution. They asked the district court to declare the Original Ordinance (and, insofar as it applied to them, the New Ordinance) unconstitutional both on its face and as applied, and to enjoin Riverside County from enforcing either version of the ordinance and from interfering with or threatening to coerce the removal of their billboards. The plaintiffs also sought "general damages in the approximate amount according to proof at trial."

The parties filed cross-motions for summary judgment in August and September of 2001. On October 15, 2001, the district court denied both motions in part and granted both motions in part. The court ruled that the plaintiffs were entitled to a declaration that the New Ordinance "is unconstitutional on its face only to the extent that section 19.2.f(1) thereof defines the legality of signs in terms of their compliance with the 'original' sign ordinance . . . ." n4 However, the district court ruled that the New Ordinance was "otherwise enforceable," and that the unconstitutional part of the New Ordinance could be severed from the rest of it --

an appropriate measure "because the balance of the new ordinance can function independently." Thus, the district court concluded, summary judgment for Riverside County on the remaining claims was warranted because the subject signs ran afoul of the zoning, maximum height, and maximum surface area provisions of both versions of the ordinance, all of which were both constitutional and severable.

We agree with the district court's conclusion that the unconstitutional aspects of the grandfather clause contained in the New Ordinance are severable from the rest of the New Ordinance. We also find that, while neither ordinance is a model of statutory clarity, the content-neutral zoning, size, and height provisions in both ordinances are constitutional and severable, and thus would be independently enforceable regardless of any other constitutional issues in either of them.

Whether one portion of an ordinance is severable from another is a question of state law. *See Leavitt v. Jane L.*, 518 U.S. 137, 139, 135 L. Ed. 2d 443, 116 S. Ct. 2068 (1996); *City of Auburn v. Qwest Corp.*, 260 F.3d 1160, 1180 (9th Cir. 2001). The California Supreme Court has held that there are three criteria for severability under California law: the provision must be grammatically, functionally, and volitionally separable. *Calfarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805, 821, 258 Cal. Rptr. 161, 771 P.2d 1247 (1989). *See also Santa Barbara Sch. Dist. v. Superior Court*, 13 Cal.3d 315, 330, 118 Cal. Rptr. 637, 530 P.2d 605 (1975) (holding that severability "*is possible and proper where the language of the statute is mechanically severable*, that is, where the valid and invalid parts can be separated by paragraph, sentence, clause, phrase, or even single words")

(emphasis in original). "The final determination depends on whether the remainder . . . is complete in itself and would have been adopted by the legislative body had the latter foreseen the partial invalidity of the statute . . . or constitutes a completely operative expression of the legislative intent . . . [and is not] so connected with the rest of the statute as to be inseparable." *Calfarm*, 48 Cal.3d at 821 (quoting *Santa Barbara Sch. Dist.*, 13 Cal.3d at 331) (alterations in original) (internal quotation marks omitted).

Both the "grandfather" provision and the zoning provisions of the New Ordinance meet these criteria. Grammatical severance is not a problem because both provisions are self-contained. Functionally, the statute remains perfectly operational without the grandfather provision, and the zoning, size, and height restrictions also function independently. And, in terms of legislative intent, the New Ordinance, without the "grandfather" provision and with the zoning, size, and height restrictions, remains perfectly consonant with the County's statement of legislative purpose and intent, which provides, inter alia:

Because Riverside County is a large, diverse and rapidly expanding jurisdiction, the Board of Supervisors finds that proper sign control is necessary for aesthetic and safety reasons. More specifically, proper sign control is necessary to provide for the preservation and protection of open space and scenic areas, the many natural and man-made resources, and the established rural communities within Riverside County. Proper sign control also safeguards the life, health, property and public welfare of Riverside County residents by providing the means to adequately

identify businesses and other sign users, by prohibiting, regulating and controlling the design, location and maintenance of signs, and by providing for the removal and limitation of sign use. It is the intent of this ordinance to provide for such control. New Ordinance, § 19.1. Finally, the zoning, size, and height restrictions are themselves constitutional because they are content-neutral "time, place, and manner" restrictions that are "justified without reference to the content of the regulated speech, . . . serve a significant governmental interest, and . . . leave open ample alternative channels for communication of the information." *Metromedia, Inc. v. San Diego*, 453 U.S. 490, 516, 69 L. Ed. 2d 800, 101 S. Ct. 2882 (1981) (plurality opinion) (quoting *Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 771, 48 L. Ed. 2d 346, 96 S. Ct. 1817 (1986)) (internal quotation marks omitted).

Accordingly, we conclude that the appellants' billboards are illegal for one simple reason: they fail to meet the content-neutral zoning, size, and height restrictions in both the Original Ordinance and the New Ordinance. Insofar as the appellants' claim for damages based on the unconstitutionality of the Original Ordinance remains live, no damages are warranted because the subject billboards were "independently" illegal under that ordinance's content-neutral zoning, size, and height provisions, which are the same as those in the New Ordinance.

AFFIRMED.

Footnotes

n1 Valley and Regency acquired their property interests in these billboards from OMG in June 1998.

n2 The Original Ordinance did not contain a definition of "advertising" simpliciter. It defined "outdoor advertising display" to include "outdoor advertising structures and outdoor advertising signs used for outdoor advertising purposes." § 19.2(a). "Outdoor advertising structure," in turn, was defined as a structure "of any kind or character erected or maintained for outdoor advertising purposes, upon which any poster, bill, printing, painting or other advertisement of any kind whatsoever may be placed, including statuary, for outdoor advertising purposes." § 19.2(b). "Outdoor advertising sign" was defined as "any card, cloth, paper, metal, painted, plastic or wooden sign of any character placed for outdoor advertising purposes, on or to the ground or any tree, wall, bush, rock, fence, building, structure or thing, either privately or publicly owned, other than an advertising structure." § 19.2(c). The statute explicitly exempted from these definitions "official notices issued by any court or public body or officer," "notices posted by any public officer in performance of a public duty or by any person in giving legal notice," "directional", warning or information structures required by or authorized by law or by Federal, State or County authority; including signs necessary for the operation and safety of public utility uses," "[a] structure erected near a city or county boundary, which contains the name of such city or county and the names of, or any other information regarding, civic, fraternal, or religious organizations located therein," and "[a] corridor 500 feet in width

adjacent to both sides of I-15 from the Riverside/San Diego County line northerly to the city limits of the City of Temecula." § 19.2(d).

n3 The New Ordinance defines a "non-commercial structure or sign" as "any structure, housing, sign, device, figure, statuary, painting, display, message, placard or other contrivance, which is designed, constructed, created, engineered, intended or used to provide data or information that does not . . . (1) Advertise a product or service for profit or for a business purpose, (2) Propose a commercial transaction; or (3) Relate solely to economic interests." § 19.2(i).

n4 Nowhere in its opinion did the district court explain what was unconstitutional about the Original Ordinance.

Case No: No. CV 00-00498 RSWL

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

VALLEY OUTDOOR, INC., and REGENCY OUTDOOR ADVERTISING, INC.,
Plaintiff,

VS.

COUNTY OF RIVERSIDE,
Defendant.

JUDGMENT

The motion of Defendant County of Riverside for summary judgment or in the alternative for partial summary judgment, and the cross-motion of Plaintiffs Valley Outdoor, Inc., and Regency Outdoor Advertising, Inc., also for summary judgment or in the alternative for partial summary judgment, came on regularly for hearing before the Court, the Honorable Ronald S.W. Lew presiding, at 9:00 a.m. on Monday October 15, 2001. Madison Spach, Jr., of Spach and Associates appeared as attorney for Plaintiffs Valley Outdoor, Inc., and Regency Outdoor Advertising, Inc.; Randal Morrison and Glenn Beloian appeared for Defendant County of Riverside.

The Court has signed an ORDER RE: CROSS-MOTIONS FOR SUMMARY JUDGMENT OR IN THE ALTERNATIVE FOR PARTIAL SUMMARY JUDGMENT, and now issues its final judgment.

DEFINITIONS

"Original ordinance" means that version of the Riverside County Sign Ordinance which was in effect at the time the subject signs were constructed, Riverside County Ordinance 348 Article XIX, dated March 3, 1998.

"New ordinance" means that version of the Riverside County Sign Ordinance, Riverside Ordinance 348 Article XIX, dated July 23, 1999.

"Subject signs" means those two permanent sign structures which are located adjacent to and north of State Highway 91 near Green River Drive, in an unincorporated area of Riverside County California. One of the subject signs is located on Riverside County Assessor's Parcel No. 101-290-023 (also known as 4820 Green River Drive). The other one of the subject signs is located on. Riverside County Assessor's Parcel No. 101-290-021.

JUDGMENT FOR PLAINTIFFS VALLEY OUTDOOR, INC., AND REGENCY OUTDOOR ADVERTISING, INC.

The Court grants in part judgment to Plaintiffs Valley Outdoor, Inc., and Regency Outdoor Advertising, Inc., as to Plaintiffs' first claim for relief in the First Amended Complaint herein, and declares that the new ordinance is unconstitutional on its face only to the extent that section19.2.f(1) thereof defines the legality of signs in terms of their compliance with the original ordinance.

JUDGMENT FOR DEFENDANT COUNTY OF RIVERSIDE

The Court grants in part judgment to Defendant County of Riverside as to Plaintiffs' first claim for relief in the First Amended Complaint, and the Court grants judgment to Defendant County of Riverside as to Plaintiffs' second, third and fourth claims for relief. Other than as stated above in the section headed "Judgment for Plaintiffs Valley Outdoor, etc.," the new ordinance is enforceable. The unconstitutional part of the new ordinance, section 19.2.f(1), which defines the legality of signs in terms of their compliance with the original ordinance, can be severed and the rest enforced. Because the zoning, size and height restrictions of the original ordinance are each severable, constitutional and separately enforceable, the subject signs have always been and continue to be illegal, and accordingly could never have achieved the status of vested, legal nonconforming uses.

The Clerk of the Court is directed to enter judgment.

Dated: 2-13-02

Hon. Ronald S. W. Lew
U.S. District Judge

SUBMIT BY:
Randal R. Morrison, Esq.
Attorney for Defendant
COUNTY OF RIVERSIDE

NON-OBJECTION AS TO FORM AND ALL RIGHTS TO APPEAL RESERVED:

Madison S. Spach , Jr., Esq.
Attorney for Plaintiffs VALLEY OUTDOOR, INC.,
and REGENCY OUTDOOR ADVERTISING, INC.

Case No: No. CV 00-00498 RSWL

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

VALLEY OUTDOOR, INC., and REGENCY OUTDOOR ADVERTISING, INC.,
Plaintiff,

VS.

COUNTY OF RIVERSIDE,
Defendant.

ORDER RE CROSS MOTIONS FOR SUMMARY JUDGMENT OR IN THE ALTERNATIVE FOR PARTIAL SUMMARY JUDGMENT

The motion of Defendant County of Riverside for summary judgment or in the alternative for partial summary judgment, and the cross-motion of Plaintiffs Valley Outdoor, Inc., and Regency Outdoor Advertising, Inc., for summary judgment or in the alternative for partial summary judgment, came on regularly for hearing before the Court, the Honorable Ronald S.W. Lew presiding, at 9:00 a.m. on Monday October 15, 2001. Madison Spach, Jr., of Spach and Associates appeared as attorney for Plaintiffs Valley Outdoor, Inc., and Regency Outdoor Advertising, Inc.; Randal R. Morrison and Glenn Beloian appeared for Defendant County of Riverside.

Having reviewed and considered the evidence and argument set forth in the moving and opposition

papers, and having heard the oral argument of counsel, the Court now rules on the motions as follows.

As a preliminary matter, the Court finds that giving res judicata effect to the decision in the state court action, County of Riverside v. Outdoor Media Group, et al., San Bernardino Superior Court Case No. SCVSS 73855, is inappropriate since the issues raised in this case were not fully litigated in the state court summary judgment motion.

The Court grants in part Plaintiffs' motion for summary judgment as to Plaintiffs' first claim for relief, and the Court denies said motion as to Plaintiffs' second, third and fourth claims for relief. Plaintiffs are entitled to a declaration that Riverside County's "new" sign ordinance (that is, the version of Riverside County Ordinance 398 Article XIX which is dated July 23, 1999, is unconstitutional on its face only to the extent that section 19.2.f(1) thereof defines the legality of signs in terms of their compliance with the "original" sign ordinance (that is, the version which was in effect at the time the subject signs were first constructed, Riverside County Ordinance 348 Article XIX, dated March 3, 1998).

The Court grants in part Defendant County of Riverside's motion for summary judgment as to Plaintiffs' first claim for relief, and the Court grants said motion as to Plaintiffs' second, third and fourth claims for relief. The Court finds that Riverside County's "new" sign ordinance is otherwise enforceable.

The Court finds that the unconstitutional part of the County's "new" sign ordinance which defines the legality of signs in terms of compliance with the "original" ordinance can be severed and the rest enforced. Partial invalidation of the new ordinance is appropriate because the balance of the new ordinance can function independently.

Original ordinance section 19.3.a(1) and new ordinance section 19.3.b(2) both allow "billboards," i.e., off-site advertising structures, in certain zones and prohibit them in all other zones. Each of the subject signs is located in a zone where outdoor advertising structures are not allowed, under both the original and the new sign ordinance. The zoning restriction of the original ordinance can be severed and separately enforced because it can function independently.

Original ordinance section 19.3.a(3) and new ordinance section 19.3.b(3) both limit billboard height to 25 feet from the roadbed of the adjacent freeway or highway to which the display is oriented. or a maximum of 25 feet above the grade on which it is constructed, whichever is greater. Each of the subject signs violates the height restriction under both the original and the new sign ordinance. The height restriction of the original ordinance can be severed and separately enforced because it can function independently.

Section 19.3.a(11) of the original ordinance and section 19.3.b(9) of the new ordinance both limit the surface area of outdoor advertising displays to a maximum of 300 square feet. Each of the subject signs violates the size limit under both the original and the new sign ordinance. The size restriction of the original ordinance

can be severed and separately enforced because it can function independently.

Accordingly, the Court finds that the subject signs could never have achieved the status of vested, legal nonconforming uses, since the subject signs were and are otherwise illegal and in violation of the original and new ordinances' enforceable zoning, size and height limits.

Dated: 2-13-02

Hon. Ronald S.W. Lew
U. S. District Court Judge

SUBMITTED BY:

Randal R: Morrison, Esq.
Attorney for Defendant
COUNTY OF RIVERSIDE

NON-OBJECTION AS TO FORM AND ALL RIGHTS TO APPEAL RESERVED:

Madison Spach, Jr., Attorney for Plaintiffs
VALLEY OUTDOOR, INC., and
REGENCY OUTDOOR ADVERTISING, INC.

No. 02-55475
D.C. No. CV-00-00498-RSWL
Central District of California,
Los Angeles

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

VALLEY OUTDOOR, INC.,
a California Corporation, et al.,
Plaintiffs – Appellants,

v.

COUNTY OF RIVERSIDE, a political
subdivision of the State of California,
Defendant – Appellee.

Filed August 21, 2003

ORDER

Before: BROWNING, B. FLETCHER, and SILVERMAN, Circuit Judges.

Regency Outdoor Advertising, Inc.'s petition for panel rehearing is denied.

RIVERSIDE COUNTY ORDINANCE
No. 348 § 19.2.f

"ILLEGAL OUTDOOR ADVERTISING DISPLAY" means any of the following:

(1) An outdoor advertising structure or outdoor advertising sign erected without first complying with all applicable county ordinances and regulations in effect at the time of its construction, erection or use.

(2) An out door advertising structure or outdoor advertising sign that was illegally erected but whose use has ceased, or the structure upon which the advertising display is places has been abandoned by its owner, and not maintained or used for a period of not less than one year.

(3) An outdoor advertising structure or outdoor advertising sign that was legally erected which later became nonconforming as a result of the adoption of an ordinance; the amortization period for the display provided by the ordinance rendering the display nonconforming has expired; and conformance has not been accomplished.

(4) An outdoor advertising structure or outdoor advertising sign which does not comply with this Article, the Outdoor Advertising Display Permit referenced in Section 19.3.a hereof, of the State Outdoor Advertising Permit referenced in Section 19.3.b.(4) hereof or any related building permit

(5) An outdoor advertising structure or outdoor advertising sign which is a danger to the public or is unsafe.

RIVERSIDE COUNTY ORDINANCE
No. 348 §19.2.i

"NON-COMMERCIAL STRUCTURE OR SIGN" means any structure, housing, sign, device, figure, statutary, painting, display, message, placard or other contrivance which is designed, constructed, created, engineered, intended or used to provide data or information that does not do any of the following:

(1) Advertise a product or service for profit or for a business purpose;

(2) Propose a commercial transaction; or

(3) Relate solely to economic interests.

RIVERSIDE COUNTY ORDINANCE
No. 348 §19.2j

"ON-SITE ADVERTISING STRUCTURE OR SIGN" means any structure, housing, sign, device, figure, statutary, painting, display, message placard, or other contrivance, or any part thereof, which is designed, constructed, created, engineered, intended or used to advertise, or to provide data or information that does either of the following:

(1) Designates, identifies, or indicates the name of the business of the owner or occupant of the premises upon which the structure or sign is located.

(2) Advertises the business conducted, services available or rendered, or the goods produced, sold or available for sale, upon the premises where the structure or sign is located

RIVERSIDE COUNTY ORDINANCE
No. 348 §19.2k

"OUTDOOR ADVERTISING DISPLAY" means an outdoor advertising structure or outdoor advertising sign used for outdoor advertising purposes, not including on-site advertising signs as herein defined and directional sign structures as provided in Riverside County Ordinance No. 679. An outdoor advertising display may be commonly known or referred to as an "off-site" or an "off-premises" billboard.

Amended:
07-23-99 (Ord. 348.3881)

RIVERSIDE COUNTY ORDINANCE
No. 348 §§19.3.b(2),(3),(9)

STANDARDS.

(2) Zoning. Outdoor advertising displays are permitted only in the C-I/C-P, M-SC, M-M and M-H Zones provided that the display meets all of the other requirements of the zoning classification and this Article. Outdoor advertising displays are expressly prohibited in all other zones.

(3) Height. The maximum height of an outdoor advertising display shall not exceed a height of 25 feet from the roadbed of the adjacent freeway or highway to which the display is oriented, or a maximum of 25 feet from the grade on which it is constructed, whichever is greater.

(9) Display Face Size. No outdoor advertising display shall have a total surface area of more than 300 square feet.

RIVERSIDE COUNTY ORDINANCE
No. 348 §19.5

NON-COMMERCIAL STRUCTURES OR SIGNS. Anywhere a display structure or sign is permitted by this ordinance, a non-commercial message may be placed on such display, structure or sign."